

## § 775.10

## 39 CFR Ch. I (7–1–04 Edition)

used for project development, and authorizes the project.

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### § 775.10 Environmental assessments.

(a) An environmental assessment must contain:

(1) A summary of major considerations and conclusions,

(2) A description of the proposed action,

(3) For each reasonable alternative, a description of the affected environment, the environmental consequences, the mitigation measures, if any, and a comparison to all alternatives considered.

(4) A list of applicable environmental permits necessary to complete the proposed action.

(b) Those preparing an environmental assessment must solicit information and views from Federal, State, and local agencies and, where there is a substantial likelihood of significant effects on the environment, the public. All responsible views and information must be considered.

[44 FR 63525, Nov. 5, 1979. Redesignated and amended at 63 FR 45719, 45722, Aug. 27, 1998]

### § 775.11 Environmental impact statements.

(a) *Determining scope.* Before an environmental impact statement is prepared, the following procedures must be followed to determine what issues are to be addressed and in what depth:

(1) Affected Federal, State, and local agencies and other interested persons are invited to participate by furnishing written views and information, or at a hearing if appropriate. Notice is given in accordance with § 775.13.

(2) The significance of issues to be analyzed in depth in the environmental impact statement is determined through consideration of:

(i) Actions which are closely related, or similar, or have cumulative significant impacts.

(ii) Alternatives, which must include the “no action” alternative, other rea-

sonable courses of action, and mitigation measures.

(iii) Impacts, which may be direct, indirect, or cumulative.

(3) Issues which are not significant are identified and eliminated.

(4) The determinations made must be revised if substantial changes are made later in the proposed action, or if significant new circumstances or information arise which bear on the proposal or its impacts.

(b) *Preparation.* (1) Except for proposals for legislation, environmental impact statements are prepared in two stages:

(i) Draft environmental impact statement, prepared in accordance with the scope decided upon under paragraph (a) of this section.

(ii) Final environmental impact statement, responding to comments on the draft statement and discussing and responding to any responsible opposing view which was not adequately discussed in the draft statement.

(2) Environmental impact statements must:

(i) Be analytic rather than encyclopedic.

(ii) Contain discussions of impacts in proportion to their significance. Insignificant impacts eliminated during the process under § 775.11(a) to determine the scope of issues must be discussed only to the extent necessary to state why they will not be significant.

(iii) Be concise, and not longer than is necessary to comply with NEPA. They must not contain repeated statements of the same basic points.

(iv) Contain discussions of alternatives considered and of how alternatives chosen will meet the requirements of NEPA and other environmental laws and policies.

(v) Encompass the range of alternatives to be considered by the decision makers.

(vi) Serve to assess the environmental impact of proposed actions, rather than to justify decisions already made.

(3) The text of final environmental impact statements normally should be less than 150 pages. Statements on proposals of unusual scope or complexity normally should be less than 300 pages.

(4) Staged or “tiered” environmental impact statements must not contain repetitive discussions of the same issues. Each document must state where each earlier document is available.

(5) Material may be incorporated into an environmental impact statement by reference only when the material is reasonably available for inspection by potentially interested persons within the time allowed for comment.

(6) If information relevant to reasonably foreseeable adverse impacts cannot be obtained because the overall cost of obtaining it is exorbitant or the means to obtain it are not known, the fact that such information is incomplete or unavailable must be stated clearly. In addition, the relevance of the incomplete or unavailable information to the evaluation of the impacts must be stated, and a summary of existing credible scientific evidence relevant to evaluation of the impacts must be included, as well as an evaluation of such impacts on the basis of theoretical approaches or generally accepted research methods. For purposes of this subsection, “reasonably foreseeable” includes impacts which have catastrophic consequences, even if their probability of occurrence is low, provided that the analysis of the impacts is supported by credible scientific evidence, is not based on pure conjecture, and is within the rule of reason.

(7) If a cost-benefit analysis relevant to the choice among environmentally different alternatives was prepared for the proposed action, it must be incorporated by reference or appended to the statement to aid in evaluating the environmental consequences. The relationship between the cost-benefit analysis and any analysis of unquantified environmental impacts, values, and amenities must be discussed.

(8) Methods used must be identified, and footnote references must be made to scientific and other sources relied on for conclusions. Analytical techniques may be incorporated in appendices.

(9) Permits, licenses, and other authorizations needed to implement a proposal must be listed in the draft environmental impact statement and the prospects for obtaining them must be assessed. Where there is uncertainty as

to the need for an authorization it must be indicated.

(10) An environmental impact statement must contain a discussion of any inconsistency between the proposed action and any State or local law, ordinance, or approved plan; and must contain a description of the manner and extent to which the proposed action will be reconciled with the law, ordinance, or approved plan.

(11) Where State laws or local ordinances impose environmental impact statement requirements which are not in conflict with those in NEPA, an environmental impact statement made by the Postal Service should satisfy pertinent State and local requirements to the extent practicable.

(c) *Format.* The standard format for environmental statements is:

(1) *Cover Sheet.* The cover sheet, not to exceed one page, must include:

(i) A list of the responsible agencies including the lead agency and any cooperating agencies.

(ii) The title of the proposed action that is the subject of the statement (and if appropriate, the titles of related cooperating agency actions), together with any city, state, and county where the action is to take place.

(iii) The name, address, and telephone number of a person at the agency who can supply further information.

(iv) A designation of the document as a draft or final statement or a draft or final supplement.

(v) A one-paragraph abstract of the statement.

(vi) The date by which comments must be received.

(2) *Summary.* The section should compare and summarize the findings of the analyses of the affected environment, the environmental impacts, the environmental consequences, the alternatives, and the mitigation measures. The summary should sharply define the issues and provide a clear basis for choosing alternatives.

(3) *Table of Contents.*

(4) *Proposed action.* This section should clearly outline the need for the EIS and the purpose and description of the proposed action. The entire action

should be discussed, including connected and similar actions. A clear discussion of the action will assist in consideration of the alternatives.

(5) *Alternatives and mitigation.* This portion of the environmental impact statement is vitally important. Based on the analysis in the Affected Environment and Environmental Consequences section (see § 775.11(c)(6)), the environmental impacts and the alternatives are presented in comparative form, thus sharply defining the issues and providing a clear basis for choosing alternatives. Those preparing the statement must:

(i) Explore and evaluate all reasonable alternatives, including the “no action” alternative, and briefly discuss the reasons for eliminating any alternatives.

(ii) Devote substantial treatment to each alternative considered in detail, including the proposed action, so that reviewers may evaluate their comparative merits.

(iii) Identify the preferred alternative or alternatives in the draft and final statements.

(iv) Describe appropriate mitigation measures not considered to be an integral part of the proposed action or alternatives. See § 775.9(a)(7).

(6) *Affected Environment and Environmental Consequences.* For each reasonable alternative, each affected element of the environment must be described, followed immediately by an analysis of the impacts (environmental consequences). The analysis must include, among others, the following:

(i) Any adverse environmental effects which cannot be avoided should the action be implemented.

(ii) The relationship between short-term uses of the environment and the maintenance and enhancement of long-term productivity.

(iii) Any irreversible or irretrievable commitments of resources should the action be implemented, and

(iv) Energy requirements and conservation; and natural, or depletable, resource requirements and conservation.

(7) *List of Mitigation Measures.*

(8) *List of Preparers.* List the names, together with the qualifications (expertise, professional disciplines), of per-

sons who were primarily responsible for preparing the environmental impact statement or significant background papers.

(9) *List of Agencies, Organizations and Persons to Whom Copies of the Statement Are Sent.*

(10) *Index.*

(11) *Appendices.* Include comments on draft statement in final statement.

(d) *Distribution.* (1) Any completed draft environmental impact statement which is made the subject of a public hearing, must be made available to the public as provided in § 775.12, of this chapter at least 15 days in advance of the hearing.

(2) Draft and final environmental impact statements must be filed with the Environmental Protection Agency. Five copies are filed with EPA's headquarters addressed to the Office of Federal Activities (A-104), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; five copies are also filed with the responsible EPA region. Statements may not be filed with the EPA earlier than they are transmitted to commenting agencies and made available to the public.

(3) Copies of draft and final environmental impact statements must be furnished to:

(i) Any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved.

(ii) Any appropriate Federal, state, or local agency authorized to develop and enforce environmental standards.

(iii) The appropriate review officials identified in the Postal Service regulations and procedures governing intergovernmental review of Postal Service facility project actions, the State Historic Preservation Officer, and, when National Register or eligible properties may be affected, the Advisory Council on Historic Preservation.

(iv) Any person, organization or agency requesting them.

(4) Copies of final environmental impact statements must be furnished to any person who, or organization or agency which, submitted substantive comments on the draft.

(e) *Responses to comments.* (1) A final statement responds to comments on a

draft statement in one or more of the following ways:

- (i) Modification of alternatives, including the proposed action.
- (ii) Development and evaluation of alternatives not previously given serious consideration.
- (iii) Supplementation, improvement, or modification of analyses.
- (iv) Correction of facts.
- (v) Explanation of why a comment does not warrant a direct response, citing supporting sources, authorities, or reasons. Relevant circumstances which may trigger reappraisal or further response must be indicated.

(2) Substantive comments received on a draft statement must be attached to the final statement.

(3) If all of the changes are minor and are confined to responses described in paragraphs (e)(1) (iv) and (v) of this section, errata sheets may be written, and only the comments and errata sheets need be recirculated. In such a case, the draft statement with the comments, errata sheets, and a new cover, must be filed as the final statement.

(f) *Supplements.* (1) A supplement to a draft or final environmental impact statement must be issued if:

- (i) Substantial changes are made in the proposed action that are relevant to environmental concerns; or
- (ii) Significant new circumstances or information bearing on environmental impacts of the proposed action arise or are discovered.

(2) The decision on a proposed action involving an environmental impact statement, must be delayed until any necessary supplement has been circulated and has gone through the commenting period. A supplement is prepared, circulated, and filed in the same manner (except for determining scope) as draft and final statements, unless alternative procedures are approved by CEQ.

(g) *Contracting.* A contractor employed to prepare an environmental impact statement must certify that it has no financial or other interest in the outcome of the project.

(h) *Proposals for Legislation.* Legislative environmental impact statements must be prepared and transmitted as follows:

(1) A legislative environmental impact statement is considered part of the formal transmittal of a legislative proposal to the Congress. It may be transmitted to the Congress up to 30 days after the proposal. The statement must be available in time for Congressional hearings and deliberations.

(2) Preparation and processing of a legislative statement must conform to the requirements for impact statements, except as follows:

(i) It is not necessary to determine the scope of issues.

(ii) A draft is considered to be a final statement. Both draft and final statements are needed only when:

(A) A Congressional committee with jurisdiction over the proposal has a rule requiring both.

(B) Both are specifically required by statute for proposals of the type being submitted.

(3) Comments received on a legislative statement, and the Postal Service's responses, must be forwarded to the Congress.

[44 FR 63525, Nov. 5, 1979, as amended at 48 FR 29378, June 24, 1983; 55 FR 10455; Mar. 21, 1990. Redesignated and amended at 63 FR 45719, 45722, Aug. 27, 1998]

#### **§ 775.12 Time frames for environmental impact statement actions.**

(a) Each week the EPA publishes in the FEDERAL REGISTER a notice of the draft and final environmental impact statements received in that office during the preceding week. The minimum time periods for decision on an action, specified in paragraphs (b) through (d) of this section, are calculated from the date of publication of an EPA notice of receipt of the relevant impact statement.

(b) A decision on a proposed action may not be made or recorded until the later of the following dates: 90 days after publication of the notice described in paragraph (a) of this section for a draft statement or 30 days after publication of the notice for a final statement.

(c) If a final statement is filed with the EPA within 90 days after a draft statement is filed, the 30 day period and the 90 day period may run concurrently.